

Testimony of Representative Garey Bies
Assembly Criminal Justice Committee
AB 155 – Providing Alcohol to Underage Persons

Good morning Chairman Turner and fellow Committee members. Thank you for allowing me this opportunity to testify in support of Assembly Bill 155, relating to penalties for individuals who knowingly provide alcohol to underage persons who are subsequently injured or killed as a result of consuming that alcohol.

The need for this legislation was brought to my attention following the tragic deaths of two young women from my district. Karen Teskie, age 20, and Amanda Brandt, age 19, spent the last evening of their lives at a tavern in Ellison Bay. Even though the bartender knew both girls were under the 21 year-old legal drinking age, he served them several drinks. Shortly after leaving the establishment, the girls were killed in a one-car crash. Both had BAC's well in excess of .08.

Their deaths have dealt a devastating blow to their families, friends, and the community as a whole. The void their loved ones feel as a result of the loss of Karen and Amanda can never be filled, but it's my hope this legislation can help prevent such a tragedy from befalling another family.

Currently, Wisconsin law protects those under the age of 18 if they are knowingly served alcohol and subsequently suffer great bodily harm or death as a result. In those cases, the provider can be charged with a Class H or Class G felony respectively. A Class H felony is punishable by a fine of not more than \$10,000 or a term of imprisonment of up to six years or both. If the underage person dies as a result of consumption, the provider can be charged with a Class G felony, punishable by a fine of not more than \$25,000 or a prison term of ten years or both.

The bartender who served Karen and Amanda was convicted on a misdemeanor charge and received a fine of \$876.

I strongly believe that we should extend to 18, 19 and 20 year-olds the same protections currently on the books for those under 18. We all know that underage drinking is a problem faced by communities across our state. Anything we can do to address this problem is a step in the right direction. We can send a strong, clear message to those who knowingly serve alcohol to our young people – if they are harmed or killed as a result of your irresponsible actions, you will be held accountable under the law.

Thank you for your time and hopefully your support of Assembly Bill 155.

Mr. Chairman and members of the Criminal Justice committee:

I appreciate the opportunity again today to speak on behalf of AB155, and why it should be approved by this committee, and then passed by the legislature and signed by Gov. Doyle.

In written comments in 2007, I told how my then nineteen year old daughter, Amanda, dying in September 2006 is a primary reason for this bill, and for my involvement now. Amanda died as a consequence of her and another underaged girl being illegally served alcohol at a local tavern; which then resulted in an automobile crash that killed them both. Another young woman was seriously injured.

I was not actually the first to approach Rep. Bies about some legislative reform; a friend who has known Garey for many years made that appeal. Sadly, as so often happens in WI, this friend lost a son in an alcohol related traffic fatality last fall. She is doing well, but is not able to be here today.

At a public forum in Sister Bay in 2007, a Door County programs director shared statistics related to the use and abuse of alcohol, with an emphasis on people under 25 years of age--some of these facts you've probably seen reported recently in state news reports. It was made clear why it is wise to not encourage or allow those under 21 to legally (or illegally) use alcoholic beverages--even if just for the sake of the fact that their brains are still developing. You must know that Wisconsin has the shameful distinction of "leading" the nation in drunkenness. I won't belabor you with the numbers or gory details, but I encourage you to look at them if you have any doubt about the scope of the problem, again, especially among young people.

Wisconsin laws actually make it much easier than many other states for this abuse and it's consequences to thrive. As a state, we too often seem to actually "celebrate" that we lead the nation in drunkenness. I was born in WI and, since moving back here to live in 1980, I've seen lots of evidence of this. As you may imagine, since our daughter's death, we look at this whole issue much differently. It is nothing to celebrate.

One comment I heard repeatedly from local government officials and law enforcement is that [in tragedies like my daughter's death] their "hands are tied" when it comes to really doing anything about it. While most people intuitively see the need to prosecute obvious negligence and wrongdoing, our laws often (and especially in our case) protect the wrong people.

This is what we found--local officials will use weak state statutes as an excuse for not doing more to either prevent or prosecute irresponsible and/or illegal behaviour involving the misuse of alcohol. Even in cases where multiple deaths or injuries occur as a result of known violations of law, there is great reluctance to take those matters seriously, or do anything to prevent future tragedies.

That is the choice you have with AB155; to take this seriously or not. I remember some of the reservations expressed about this bill in 2007. I hope, after all that's been published in the last year, and after numerous tragedies since 2007, that you will now approve this simple measure. But, I have to tell you, it seems that some are still more willing to err on the side of doing little or nothing, than to take even small steps toward correcting any part of a deadly serious problem.

AB155 makes a small but significant change to the imbalance in who is protected. As a parent who has suffered the loss of someone not much protected by Wisconsin law, it is remarkable and frustrating that more care is shown to those who illegally and often irresponsibly allow young people to drink alcohol than to protecting young people from potential harm.

You must know that under Wisconsin law, those who sell and serve alcohol beverages have "immunity" [from civil and criminal penalties] as long as they abide by certain statutes regulating this commerce. This [near blanket] immunity is much in the "favor" of such people; moreso than in many other states. It can be easily argued that this is one of the root causes of WI leading in drunkenness nationally. It is clear to many that our laws now overly protect sellers and servers, even when their misconduct causes great harm, and that some reform is needed for the sake of public safety--not to

mention addressing the under-lying but huge economic impact. It should be clear that without a bigger disinsentive, the illegal serving of people under 21 will not change. In fact, it may get worse.

Justice demands the slight but necessary change AB155 will bring.

AB155 doesn't disallow the discretion of local law enforcement, prosecutors, judges or juries to consider the facts and circumstances of any individual case. It does extend a more consistent measure of penalty when anyone under the legal age is wrongly served alcohol and suffers great harm as a result. Please keep in mind, this is about the worst consequences from an illegal activity. It is about those who are seriously injured, or who die.

My daughter was maturing in her decision making, and had all the promise of a bright, multi-talented and beautiful young woman. She made a very bad decision the night of her death, as did her friend (the driver), who was only 20. They went to a local tavern (where the only bartender on duty knew they were underage) and were illegally served--and over-served!--alcohol beverages. Many people at the bar that night had opportunity to intervene, but none did.

Early on September 25th 2006, we learned that the girls "paid" for their mistake with their lives. The only consequence for anyone involved with illegally serving them was a fine of a little over \$800. You may not be surprised to know that the bartender--even though cited by local authorities--was back into the bar and drinking scene almost immediately; even flaunting his continued bad behaviour.

Passing AB155 into law will "untie" the hands of some prosecutors and, at the very least, will give others less excuse to sit by and do nothing when young people are killed or seriously injured.

Since Amanda's death in 2006, we have moved a long way forward from the worst kind of personal tragedy. In the larger Door County community, some things have been begun to help change how we look at and deal with excessive and illegal alcohol use. Though we have a ways to go, I believe some tragedies have been and will be prevented. Other communities in WI have also taken the initiative to address their own problems with alcohol use.

Ladies and gentlemen, the same cannot be said for the WI legislature since 2006.

Things need to begin to change in WI law, and now; a change can occur in this room. I've been told that 20 separate bills addressing alcohol beverage in some way are before the assembly this session. Some of this needs to be passed. With AB155, you have a chance to intervene; to make a difference that may eventually save lives. If not you, then who? And if not, why?

Please pass AB155 as written, and lobby your fellow lawmakers and the governor to do the same. The law--all by itself--may not cause a needed change in social behavior, but it should do what only the law can do; what it's supposed to do. That is now up to you.

Thank you.

David Brandt
Ellison Bay, WI